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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/717,919

11/21/2003

Ki-hyun Kim

1793.1078

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49455

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07/31/2008

STEIN, MCEWEN & BUI, LLP

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EXAMINER

TORRES, JOSEPH D

ART UNIT

PAPER NUMBER

2112

MAIL DATE

DELIVERY MODE

07/31/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/717,919

**Applicant(s)**

KIM ET AL.

**Examiner**

Joseph D. Torres

**Art Unit**

2112

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-10, 28-31 and 44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 and 28-31 is/are allowed.
- 6) ☐ Claim(s) 44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 January 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 1/10/2008 have been fully considered but they are not persuasive.

The Applicant contends, "In the rejection of claim 44, the Examiner argues that claim 44 recites a "computer readable medium," paragraph [0042] in the Applicant's specification teaches that a carrier wave is a "computer readable medium," carrier waves do not fall into one of the statutory categories of invention, and that claim 44 is directed to non-statutory subject matter for this reason. In response to this rejection, paragraph [0042] has been amended to remove this carrier wave language. Accordingly, it is respectfully submitted that the rejection of claim 44 under 35 U.S.C. §101 should be withdrawn for at least this reason".

The Examiner disagrees and asserts that the amended specification now recites, "the computer readable medium includes but is not limited to storage media such as magnetic storage media (e.g., ROM's, floppy disks, hard disks, etc.)T and optically readable media (e.g., CD-ROMs, DVDs, etc.)" replacing previous language "the computer readable medium includes but is not limited to storage media such as magnetic storage media (e.g., ROM's, floppy disks, hard disks, etc.), optically readable media (e.g., CD-ROMs, DVDs, etc.), and carrier waves (e.g., transmission over the

**Internet)**" [Emphasis added]. There is nothing in the record or the specification that defines computer readable medium in such a way to exclude carrier waves.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claim 44 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 44 recites a "computer readable medium". Paragraph [0042] in the Applicant's specification teaches that a carrier wave is "computer readable medium". Carrier waves do not fall into one of the statutory categories of invention.

The Applicant contends, "In the rejection of claim 44, the Examiner argues that claim 44 recites a "computer readable medium," paragraph [0042] in the Applicant's specification teaches that a carrier wave is a "computer readable medium," carrier waves do not fall into one of the statutory categories of invention, and that claim 44 is directed to non-statutory subject matter for this reason. In response to this rejection, paragraph [0042] has been amended to remove this carrier wave language. Accordingly, it is respectfully submitted that the rejection of claim 44 under 35 U.S.C. §101 should be withdrawn for at least this reason".

The Examiner disagrees and asserts that the amended specification now recites, "the computer readable medium includes **but is not limited to storage media** such as

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magnetic storage media (e.g., ROM's, floppy disks, hard disks, etc.)T and optically readable media (e.g., CD-ROMs, DVDs, etc.)” replacing previous language “the computer readable medium includes but is not limited to storage media such as magnetic storage media (e.g., ROM's, floppy disks, hard disks, etc.), optically readable media (e.g., CD-ROMs, DVDs, etc.), and carrier waves (e.g., transmission over the Internet)” [Emphasis added]. There is nothing in the record or the specification that defines computer readable medium in such a way to exclude carrier waves.

### ***Allowable Subject Matter***

Claims 7-10 and 28-31 are allowed.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Torres whose telephone number is (571) 272-3829. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Joseph D. Torres  
Primary Examiner  
Art Unit 2112

/Joseph D. Torres/  
Primary Examiner, Art Unit 2112